



## Japan

### Country Reports on Human Rights Practices - [2002](#)

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Japan is a parliamentary democracy based on the 1947 Constitution. Sovereignty is vested in the citizenry, and the Emperor is defined as the symbol of state. Executive power is exercised by a cabinet, composed of a prime minister and ministers of state, which is responsible to the Diet, a two-house parliament. The Diet, elected by universal suffrage and secret ballot, designates the Prime Minister, who must be a member of that body. The Liberal Democratic Party (LDP), the Conservative Party, and the Komeito party formed the Government in July 2000; it is headed by Prime Minister Junichiro Koizumi. The judiciary is generally independent.

The self-defense forces are responsible for external security and have limited domestic security responsibilities. The well-organized and disciplined police force was effectively under the control of the civilian authorities. However, there continued to be credible reports that police committed some human rights abuses.

In spite of a lengthy economic downturn, the industrialized, free market economy continued to provide the approximately 127 million residents with a high standard of living and high levels of employment.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There continued to be credible reports that police and prison officials physically and psychologically abused prisoners and detainees. Officials sometimes were dismissed for such abuse but seldom were tried, convicted, and imprisoned. Violence against women and children, child prostitution, and trafficking in women were problems. Women, the Ainu (the country's indigenous people), the Burakumin (a group whose members historically were treated as outcasts), and alien residents experienced varying degrees of societal discrimination, some of it severe and longstanding. According to Ministry of Justice figures, the Legal Affairs Bureau Offices and civil liberties volunteers dealt with 391,685 human rights-related complaints during 2001. Also during 2001, the Regional Legal Affairs Bureaus and the District Legal Affairs Bureaus received reports of 17,979 suspected human rights violations. However, staffing constraints and limited legal powers kept the administrative system for combating human rights violations weak, and many of these cases were ultimately resolved in the courts.

In 2001 the Justice Ministry's Council for Human Rights Promotion submitted recommendations for stronger governmental measures to address human rights abuses, including the establishment of a human rights commission that would provide relief to victims of human rights violations committed by public authorities and members of the media through arbitration and administrative guidance. The report also recommended that the proposed body be granted investigative powers. During the year, the Justice Ministry submitted legislation to this effect. At year's end, the legislation was under debate in the Diet.

Japan was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

On October 25, Democratic Party of Japan Lower House Member Koki Ishii was killed outside his home; however, there were no indications that the killing was politically motivated.

###### b. Disappearance

There were no reports of politically motivated disappearances.

The country was riveted, however, by the September admission by Democratic People's Republic of Korea (DPRK) leader Kim Jong Il that the DPRK had kidnaped at least 13 Japanese citizens during the 1970s and taken them to North Korea. The DPRK allowed five surviving victims to visit Japan in October. They have remained in the country since that time. The DPRK alleged that the remaining eight are deceased. There was speculation, not officially confirmed by the Government, that the DPRK had abducted many more citizens over the years.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution provides for freedom from torture and cruel, inhuman, or degrading treatment or punishment, and the Penal Code prohibits violence and cruelty toward suspects under criminal investigation; however, reports by several bar associations, human rights groups, and some prisoners indicated that police and prison officials sometimes used physical violence, including kicking and beating, as well as psychological intimidation, to obtain confessions from suspects in custody or to enforce discipline. Unlike in 2000, there were no allegations of beatings of detainees by employees of private security companies that operated immigration detention facilities at Narita International Airport. The 2000 revision of the National Police Law permits persons to lodge complaints against the police with national and local public safety commissions. These commissions may direct the police to conduct investigations. However, public confidence in this system remained low, and allegations that the police and the public safety commissions remained lax in investigating charges of police misconduct persisted.

The Constitution and the Criminal Code include safeguards to ensure that no criminal suspect can be compelled to make a self-incriminating confession or be convicted or punished in cases where the only evidence against the accused is his own confession. The appellate courts overturned some convictions in recent years on the grounds that they were obtained as a result of coerced confessions. In addition, civil and criminal suits alleging abuse during interrogation and detention have been brought against some police and prosecution officials.

About 90 percent of all criminal cases going to trial included confessions, reflecting the priority the judicial system placed on admission of guilt. Confession was regarded as the first step in the rehabilitative process. The Government pointed out that the high percentage of confessions, like the high conviction rate, was reflective of a higher standard of evidence needed to bring about indictment in the judicial system.

Physical restraints, such as leather belts with attached leather manacles, continued to be used as a form of punishment, and some prisoners were forced to eat and relieve themselves unassisted while wearing these restraints. Ministry of Justice officials stated that restraints were used inside prisons only when prisoners had been violent and posed a threat to themselves and others, or when there was concern that a prisoner might attempt to escape. During the year, however, five Nagoya Prison guards were arrested for abusing a prisoner by using the leather restraining device to inflict serious internal injuries. In December two of the same guards, as well as a separate third guard, were arrested in connection with the death of a 49-year-old prisoner in May. This death was also allegedly the result of abuse with the leather restraining device.

Prison conditions met international standards; however, the National Police Agency and Ministry of Justice reported that some prisons and detention facilities were overcrowded during the year (see Section 1.d.). Prisons in most areas of the country were not heated, and prisoners were given only minimal additional clothing to protect themselves against cold weather. There have been cases of frostbite among the prison population in recent years. In 2001 the Ministry of Justice requested funding for a 3-year plan to install heaters in prison buildings nationwide. Individual cells are to remain unheated. Prisoners were not allowed to purchase or receive supplementary food. They were discouraged strongly from complaining about conditions. Prisoners faced severe restrictions on the quantity of their incoming and outgoing correspondence. The authorities read letters to and from prisoners, and some letters were censored, or, with a court order, confiscated. All visits with convicted prisoners were monitored; however, those prisoners whose cases were pending were allowed private access to their legal representatives. Prison officials claimed that the "no complaining" policy was designed to keep family members from worrying about their relatives. For the same reason, the Justice Ministry usually did not inform a condemned inmate's family prior to the person's execution. Human rights organizations reported that lawyers also were not told of an execution until after the fact, and that death row prisoners were held for years in solitary confinement with little contact with anyone but prison guards. Parole may not be granted for any reason, including medical and humanitarian reasons, until an inmate has served two-thirds of his or her sentence.

According to year-end Ministry of Justice data, normal prison facilities were filled to 103 percent of capacity in 2001. Nongovernmental organization (NGO) and press sources indicated that this overcrowding was a contributing factor in the 6,373 reported violent incidents in prisons in 2001, a 1.6 fold increase in incidents since 1996.

In the past, the Japanese Federation of Bar Associations and human rights groups have criticized the prison system, with its emphasis on strict discipline and obedience to numerous rules. Prison rules remained confidential. Wardens continued to have broad leeway in enforcing punishments selectively, including "minor solitary confinement," which may be imposed for a minimum of 1 and not more than 60 days in which the prisoner is made to sit (for foreigners) or kneel (for citizens) motionless in the middle of an empty cell.

Women and juveniles were housed in separate facilities from men; at times during the year, some women's detention facilities

also were operating over stated capacity. Pretrial detainees were held separately from convicted prisoners (see Section 1.d.).

Conditions in immigration detention facilities met most international standards.

The Government restricted access to prisons by human rights groups.

#### d. Arbitrary Arrest, Detention, or Exile

Constitutional provisions for freedom from arbitrary arrest or imprisonment generally were respected in practice. The law provides for judicial determination of the legality of detention. Persons may not be detained without charge, and prosecuting authorities must be prepared to demonstrate before trial that probable cause exists to detain the accused. Under the law, a suspect may be held in detention at either a regular detention facility or "substitute" (police) detention facility for up to 72 hours. A judge must interview suspects prior to detention. A judge may extend preindictment custody by up to 2 consecutive 10-day periods based on a prosecutor's application. These extensions were sought and granted routinely. Under extraordinary circumstances, prosecutors may seek an additional 5-day extension, bringing the maximum period of preindictment custody to 25 days.

In 1999 the Supreme Court upheld as constitutional the section of the Criminal Procedure Code under which police and prosecutors have the power to control or limit access by legal counsel when deemed necessary for the sake of an investigation. Counsel may not be present during interrogations at any time before or after indictment. As a court-appointed attorney is not approved until after indictment, suspects must rely on their own resources to hire an attorney before indictment, although local bar associations provided detainees with limited free counseling. Critics charged that access to counsel was limited both in duration and frequency; the Government denied that this was the case.

Critics charged that allowing suspects to be detained by the same authorities who interrogated them heightened the potential for abuse and coercion. The Government countered that cases sent to police detention facilities tended to be those in which the facts were not in dispute. A Justice Ministry regulation permits detention house officials to limit the amount of documentation related to ongoing court cases retained by prisoners.

The length of time before a suspect was brought to trial depended on the nature of the crime but rarely exceeded 3 months from the date of arrest; the average was 1 to 2 months. In one case, an accused allegedly was held for 3 years. In 2001 in its final report, an advisory panel to the Prime Minister on judicial reform called for a substantial increase in judges, prosecutors, and Justice Ministry personnel to shorten the time between arrest and trial.

The law does not permit forced exile, and it was not used.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the judiciary generally was independent and free from executive branch interference. The Cabinet appoints judges for 10-year terms, which can be renewed until judges reach the age of 65. Justices of the Supreme Court can serve until the age of 70 but face periodic review through popular referendums.

There are several levels of courts, including high courts, district courts, family courts, and summary courts, with the Supreme Court serving as the final court of appeal. Normally a trial begins at the district court level, and a verdict may be appealed to a higher court, and ultimately, to the Supreme Court.

The Government generally respected in practice the constitutional provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. Although most criminal trials were completed within a reasonable length of time, cases may take several years to work their way through the trial and appeals process. Responding to the final report of a government advisory panel established in 1999 to outline structural reforms to the judicial system, in 2001 the Government announced plans to begin drafting legislation aimed at reducing the average time required to complete criminal trials and civil trials that include witness examination, which lasted an average of 20.5 months in 1999. Its proposals included hiring substantial numbers of additional court and Justice Ministry personnel, revising bar examinations, establishing new graduate law schools to increase the overall number of legal professionals three-fold by 2010, and requiring that courts and opposing litigants jointly work to improve trial planning by allowing for earlier evidence collection and disclosure. The advisory panel also stated that it would release the official standards for setting up graduate law schools by March 2003, and at year's end, almost 100 universities had expressed an interest in opening graduate law schools by April 2004. In September the Ministry of Justice, the Supreme Court, and the Japan Bar Association agreed to set up a new bar examination system by 2010. In November a government panel introduced a draft bill that would make the Supreme Court responsible for accelerating proceedings in lower courts. The draft bill imposes a 2-year time limit for courts to bring criminal and civil trials to conclusion and requires the government to take the legal and financial measures necessary to accomplish these goals.

In the case of the Aum Shinrikyo 1995 sarin gas attack on the Tokyo subway system, the trials of three senior members of the group were concluded during the year and the trials of four other senior members were still underway in district courts at year's end.

There is no trial by jury. The defendant is informed of the charges upon arrest and is assured a public trial by an independent civilian court with defense counsel and the right of cross-examination. However, in 2001 the Government's Judicial Reform Council recommended that randomly chosen members of the public be allowed to participate in determining rulings and penalties in criminal trials by deliberating the cases alongside professional judges. The Diet enacted implementing legislation in 2001, with the aim of adopting all of the advisory panel's reform proposals by 2004.

The defendant is presumed innocent. The Constitution provides defendants with the right not to be compelled to testify against themselves as well as to free and private access to counsel; however, the Government contended that the right to consult with attorneys is not absolute and can be restricted if such restriction is compatible with the spirit of the Constitution. Access sometimes was abridged in practice; for example, the law allows prosecutors to control access to counsel before indictment, and there were allegations of coerced confessions (see Sections 1.c. and 1.d.). Defendants are protected from the retroactive application of laws and have the right of access to incriminating evidence after a formal indictment has been made. However, the law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claimed that legal representatives of defendants did not always have access to all needed relevant material in the police record to prepare their defense. A defendant who is dissatisfied with the decision of a trial court of first instance may, within the period prescribed by law, appeal to a higher court.

No guidelines mandate the acceptable quality of communications between judges, lawyers, and non-Japanese speaking defendants, although the Supreme Court published handbooks explaining the legal procedures and terms for court interpreters. In 2000 the Supreme Court introduced a training system to help court interpreters understand complicated trial procedures. However, no standard licensing or qualification system for certifying court interpreters exists, and a trial may proceed even if the accused does not understand what is happening or being said. The Supreme Court's 1998 statistics showed a chronic shortage of qualified court interpreters, particularly for non-English-speaking defendants. Foreign detainees frequently claimed that police urged them to sign statements in Japanese that they could not read and that were not translated adequately.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home,

or Correspondence

The Constitution protects the right to privacy of family, home, and correspondence, and the Government generally respected these rights in practice. Under the Constitution, each search or seizure must be based on a separate warrant issued by a judge. Standards for issuing such warrants exist to guard against arbitrary searches. In 2000 legislation went into effect that allows law enforcement authorities to use wiretaps in certain criminal investigations, including suspected drug offenses, murder, and trafficking in persons. The law also stiffened penalties for the unauthorized use of wiretaps by police authorities. Under this law, wiretaps can only be used if law enforcement officials can demonstrate that all other investigative techniques have been ineffective.

In April the Defense Agency confirmed reports that it had violated a law protecting personal information when it compiled lists of citizens seeking official documents. This inspired public debate on a privacy bill that remained under consideration in the Diet at year's end.

There were no new developments in the longstanding effort by groups representing women and persons with disabilities to obtain a government investigation, a formal apology, and compensation in the case of the several thousand women with disabilities who were sterilized without their consent between 1949 and 1992. A law that the Government revoked in 1996 permitted doctors, after they had received the approval of committees appointed by local governments, to sterilize persons with mental or physical disabilities or certain hereditary diseases without consent.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Academic freedom was not restricted. The Science, Technology and Education Ministry's authority to order revisions to elementary, middle, and high school textbooks based on national curriculum guidelines remained a source of domestic and international controversy. In 1997 the Supreme Court ruled that state screening of textbooks did not violate the constitutional provisions for freedom of expression. In 2001 police investigated a suspected firebomb attack on the offices of the Japanese Society for History Textbook Reform whose controversial treatment of World War II events in a junior high school textbook sparked domestic and international protests.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Following the 1995 Aum Shinrikyo terrorist attacks, a 1996 amendment to the Religious Corporation Law gave government authorities increased oversight of religious groups and required greater disclosure of financial assets by religious corporations. The Government does not require that religious groups be licensed. However, to receive official recognition as a religious organization, which brings tax benefits and other advantages, a group must register with local or national authorities as a "religious corporation." In practice almost all religious groups were registered.

The only group under active government surveillance was Aum Shinrikyo, which the Government considered to be a continuing public danger. Formally renamed Aleph in 2000, Aum Shinrikyo lost its legal status as a religious organization in 1996 following its sponsorship of terrorist attacks. Foreign observers have classified Aum Shinrikyo/Aleph as a terrorist organization. In response to reports of increased Aum Shinrikyo/Aleph fundraising and recruitment activities, local police and communities have taken measures against its members and chapters, including denying residency permits and public school access to Aum Shinrikyo/Aleph leader Asahara's children. In 1999 the Diet passed legislation that allowed the authorities to seize the group's assets more easily, tighten surveillance against it, and force it to pay compensation to victims of its past crimes. The laws are subject to review, including possible repeal, in 2005. The Public Security Investigation Agency (PSIA) placed Aum Shinrikyo/Aleph under continuous surveillance for a 3-year period in January 2000, on the basis of one of the new laws. In December the PSIA filed a request with the Security Examination Commission to extend the surveillance for another 3-year period, but at year's end, no decision had been made.

Members of the Unification Church and Jehovah's Witnesses have alleged that police do not act in response to allegations of forced deprogramming of church members. They also claimed that police did not enforce the laws against kidnapping when the victim was held by family members, asserting that Unification Church members were subjected to prolonged arbitrary detention by individuals, who were not charged by police.

For a more detailed discussion see the 2002 International Religious Freedom Report.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

Citizens have the right to travel freely both within the country and abroad, to change their place of residence, to emigrate, and to repatriate voluntarily. Citizenship may be forfeited by naturalization in a foreign country or by failure of persons born with dual nationality to elect citizenship at the required age.

Asylum and refugee policy is in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government requires applicants to appear at an immigration office within 60 days of arrival or within 60 days of learning that they are likely to be persecuted in their home country. Individuals who do not present their applications within the 60-day time frame due to extenuating circumstances may apply for an exception. However, the UNHCR estimated that approximately 50 percent of applicants were rejected for failing to meet the 60-day application deadline. In November an advisory group to the Ministry of Justice proposed that the 60-day application deadline be extended to either 6 months or a full year. An alien recognized as a refugee has access to educational facilities, public relief and aid, and social welfare benefits. An alien denied refugee status may appeal the decision to the Ministry of Justice. Rejected applicants also may take their cases to court if Ministry authorities do not recognize their objections. In an effort to make procedures clearer to applicants, the Government distributed a pamphlet in English, Chinese, and eight other languages to those interested in the asylum process.

While the Government sometimes grants first asylum, the Justice Ministry determines such grants on a case-by-case basis. The average processing time for initial case determination was approximately 1 year.

In recent years, the Government has granted refugee and asylum status to those claiming fear of persecution in only a small number of cases. It believes that most persons seeking asylum in the country did so for economic reasons. In 2001 353 persons in the country were either seeking asylum or accorded refugee status. Of these cases, the Government recognized 26 refugee cases. According to UNHCR, most new applicants were from Pakistan, Turkey, Afghanistan, and Iran.

The Government has shown flexibility in dealing with visa extensions for Chinese student dissidents, although it continued to be reluctant to grant permanent asylum. Burmese asylum applicants have complained that asylum cases can continue for years without a formal decision.

In May the country's refugee policy came into the national spotlight when North Korean nationals attempting to claim political asylum were stopped and arrested by Chinese security officials inside of the Japanese Consulate General in Shenyang, China. The harsh public scrutiny and criticism resulting from the incident led the Government to re-examine its refugee policy. An advisory group to the Ministry of Justice also proposed that the Government should provide shelter for asylum seekers.

The 2000 revisions to the Immigration Control and Refugee Recognition Act, which aimed at reducing visa overstays and the smuggling of persons, have the potential to affect asylum seekers. The revised law imposes stiff penalties on persons illegally entering the country, and those deported are denied reentry for at least 5 years instead of the previous penalty of 1 year. However, the Immigration Bureau has given assurances to UNHCR that these new provisions will not be used against genuine asylum seekers. In November an advisory group to the Ministry of Justice proposed that potential refugees who are subject to deportation due to their lack of a visa status should be granted legal protection from deportation until the Justice Minister decides on their refugee applications or complaints. In addition, the Ministry of Justice announced in December that, starting in January 2003, it would give detailed, written explanations of decisions not to grant refugee status to asylum-seekers and that an information office would be opened at Narita Airport in January 2003 for potential asylum seekers.

There were no reports that persons were forced to return to a country where they feared persecution.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In 1998 the Diet granted citizens living overseas the right to vote for candidates in national elections in races based on proportional representation. In 1999 the Diet extended these absentee-voting privileges to fishermen and mariners.

The country is a parliamentary democracy governed by the political party or parties able to form a majority in the lower house of its bicameral Diet. The Liberal Democratic Party, the Conservative Party, and the Komeito party formed the existing coalition Government in July 2000.

In recent years, the numbers of women holding public office has slowly increased. At year's end, women held 34 seats in the 480-member lower house of the Diet (7.08 percent), and 38 of the 247 seats in the upper house (15.4 percent). There were 4 women in the 18-member Cabinet. Women accounted for 5.7 percent of elected members of prefectural assemblies and 10.5 percent of elected members of local assemblies. Three of the country's 47 governors were women; the female Governors of Osaka and Kumamoto were elected in 2000, and a third was elected in Chiba in 2001.

No figures were available at the national level regarding minority political participation.

### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of local and international human rights organizations functioned freely, without governmental restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views, although the Government restricted access to prisons and immigration detention facilities by human rights groups (see Section 1.c.).

The Justice Ministry's Council for Human Rights Promotion, an advisory panel, continued to work on a 5-year mandate to develop measures to educate citizens about the importance of respecting human rights. In 1999 the Council submitted a report that called for greater attention to human rights education, particularly at the municipal level, and cited a number of ongoing human rights problems, including sexual harassment, domestic violence, and discrimination against the elderly, persons with disabilities, minorities, and foreigners. In 2001 the Council submitted a final set of recommendations that included the establishment of a human rights commission to provide relief through arbitration and administrative guidance to victims of social and racial discrimination, domestic violence, and human rights violations committed by public authorities and members of the media (the recommendations cite breaches of privacy, defamation, and "obstruction of a peaceful private life" as potential human rights violations by the mass media and Internet users). The report recommended that the proposed body be granted investigative powers, but it also recommended that its secretariat be established through a reorganization of the Justice Ministry's existing Civil Liberties Bureau. At year's end, this legislation was under consideration in the Diet.

### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of race, creed, gender, social status, or family origin, and the Government generally respected these provisions.

#### Women

Violence against women, particularly domestic violence, often went unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or offspring. Also, women who were victims of domestic

violence typically returned to the home of their parents rather than file reports with the authorities. Therefore, National Police Agency statistics on violence against women probably understated the magnitude of the problem. In 2001 the Diet passed a new law to combat domestic violence which allows district courts to impose 6-month restraining orders on perpetrators and sentence violators to up to 1 year in prison or fines of up to \$7,910 (1 million yen). In addition, the law also covers common-law marriages and divorced individuals; it also encourages prefectures to expand shelter facilities for domestic abuse victims and stipulates that local governments offer financial assistance to 40 private institutions already operating such shelters. According to National Police Agency statistics, 2,174 rapes and 8,699 indecent assaults were reported during the year. Husbands have been prosecuted for spousal rape; usually these cases involved a third party who assisted in the rape.

Many local governments responded to the need for confidential assistance for abused women by establishing special women's consultation departments in police and prefectural offices. Since the anti-stalking law went into effect in 2000, police have received 25,145 stalking complaints, arrested 164 persons, and issued 988 warnings.

Local governments and private rail operators continued to implement measures designed to address the widespread problem of groping and molestation of female commuters. In 2001 the Tokyo Metropolitan Police organized a council with representatives of train companies to discuss antigroping measures. As a result, several railway companies started a poster campaign to raise awareness of antigroping ordinances and to advertise railway police contact information, including contact information for the molestation complaint offices established by the Metropolitan Police Department in 1995. In 2001 at the suggestion of the Metropolitan Police, the Tokyo Metropolitan Assembly also revised its antigroping ordinance to make first-time offenders subject to imprisonment. Also in 2001, Keio Electric Railway Company decided to make a trial women-only rail car program permanent, reserving one car only for women on all express and limited express trains running after 11 p.m. Monday to Friday. During the year, the Ministry of Transportation collaborated with the Hankyu and Keihan Railways to add women-only rail cars to their limited express trains, with Hankyu becoming the first railway in Japan to offer women-only cars all day long.

Trafficking in women was a problem (see Section 6.f.).

The Constitution and the Equal Employment Opportunity (EEO) Law prohibit sexual discrimination; however, sexual harassment in the workplace remained widespread. A National Personnel Authority survey of female public servants conducted in 2000 found that 69.2 percent of all female respondents believed they have been subjected to acts that constituted sexual harassment. The National Personnel Authority established workplace rules in April 1999 in an effort to stop harassment in public servants' workplaces. New survey data indicated that the most severe forms of sexual harassment may be declining in government workplaces; female public servants who stated that their bosses had pressured them into a sexual relationship dropped from 17 percent in 1997 to 2.2 percent in 2000. In 1999 a revision to the EEO Law intended to address problems of sexual harassment and discrimination against women went into effect. The revised EEO Law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance, other than allowing names of companies that practice sexual discrimination to be publicized. Under the Labor Standards Law, an arbitration committee is allowed to initiate procedures to help ensure the rights of female workers at a worker's request, without first having to obtain approval from both management and the worker's union. A number of government entities have established hot-lines and designated ombudsmen to handle complaints of discrimination and sexual harassment.

The Labor Standards Law forbids wage discrimination against women. Under the revised EEO Law, women may work overtime shifts.

Women make up 40 percent of the labor force, and women between the ages of 15 and 64 have a labor force participation rate of 51 percent. In response to a 2000 Government survey that revealed that potential employers had discriminated against one in five women entering the work force on the basis of gender, in 2001 the Labor Ministry distributed 100,000 manuals outlining 25 hiring or recruiting practices that violated the EEO law. Although the Labor Standards and the EEO laws prohibit wage discrimination against women, in 2001 female workers on average earned only 65.3 percent of average male earnings. In general younger women (age 20-24) tended to make almost as much as men did; older women (50 and older) tended to make much less. Much of this disparity resulted from the "two-track" personnel administration system found in most larger companies under which new hires were put into one of two categories: Managerial track, in which those engaged in planning and decision making jobs had the potential to become top executives, and general track, in which employees engaged in general office work. According to a 2000 survey by the Public Management, Home Affairs, Post and Telecommunications Ministry, women held 8.9 percent of managerial positions. A 2000 Labor Ministry survey found that 52.9 percent of the companies with a two-track personnel system did not have women in managerial track positions. In 2001 the Osaka District Court dismissed a wage bias suit filed by female employees of Sumitomo Chemical Company who had been placed in a non-managerial career track in 1970 when the company introduced a dual-track system. However, in 2001 the Tokyo District Court ruled against conventional wage compensation assessment methods that used existing gender income disparities to determine future earnings potential in the case of minors. During the year, the Supreme Court mediated a settlement to a 1987 lawsuit in which 13 female employees had sued the Shiba Shinkin Bank over discriminatory salary and promotion policies. As a result of the mediation, six retired plaintiffs were retroactively promoted to section chief and paid lost wages worth \$1.86 million. Of the seven currently employed plaintiffs, six received immediate promotions to become section chiefs and one was guaranteed a chance to take the promotion exam.

According to the Prime Minister's Bureau of Gender Equality, women held only 4.1 percent of top local government positions through March 2001, although approximately a third of all local government workers were women. According to the Home Ministry, some of the 4,200 local governments that urged employees to retire before the mandatory age of 60 regularly urged female employees to retire at younger ages than male employees.

In addition to discrimination, the traditional male and female division of labor at home placed disproportionate burdens on working women, who were still responsible for almost all childcare and household duties.

Advocacy groups for women and persons with disabilities continued to press for a government investigation into sterilization cases that were carried out between 1949-92, a formal government apology, and compensation (see Section 1.f.).

In 1993 the Government publicly acknowledged and apologized for the former Imperial Government's involvement in the army's practice of forcing as many as 200,000 women (including Koreans, Filipinos, Chinese, Indonesians, Dutch, and Japanese) to provide sex to soldiers between 1932-45. A 1999 U.N. Subcommission on Prevention of Discrimination and Protection of Minorities report included a recommendation that the Government provide state compensation to former "comfort women" and prosecute those responsible for setting up and operating "comfort stations" during World War II. The Government has been unwilling to pay direct compensation to individual victims, on the grounds that postwar treaties settled all war claims. In 2001 the Hiroshima High Court reversed a 1998 Yamaguchi District Court ruling that had ordered the Government to pay \$2,542 (300,000 yen) in state compensation to three Korean former comfort women for neglecting its constitutional duty to enact compensation legislation following the Government's 1993 admission. The District Court ruling had been the first court judgment rendered in favor of foreign war victims. Over 50 damage suits have been filed in the courts; approximately 10 cases were pending at year's end. In 2001 a U.S. federal judge dismissed a lawsuit brought by 15 comfort women, ruling that U.S. courts do not have jurisdiction over claims arising from Japan's wartime conduct. During the year, the Hiroshima District Court ruled that although the Yasuno Power Plant had illegally forced five Chinese plaintiffs to work under severe conditions during World War II, the company could no longer be held legally liable as the case exceeded the statute of limitations.

The Asian Women's Fund (AWF) is a private, government-sponsored fund established to "extend atonement and support" to former comfort women. The AWF supported three types of projects: Payments to individual victims; medical and welfare assistance to individual comfort women; and funding projects to improve the general status of women and girls. Projects in the first category were funded by private donations, while the second and third types of projects were financed by the Government and administered by the AWF. At year's end, the AWF had collected donations totaling approximately \$4.91 million (590 million yen) and given lump sum payments of almost \$4.75 million (570 million yen) as well as letters of apology signed by the Prime Minister to more than 285 women from the Philippines, Korea, and Taiwan. These women also received medical and welfare assistance from the AWF. The AWF has reached an agreement with a Dutch affiliate to make compensation payments to former Dutch comfort women; government officials estimated that up to 100 Dutch women were forced to provide sexual services during World War II. The Government's refusal to pay direct compensation continued to draw international criticism.

#### Children

The Government is committed to children's rights and welfare, and in general the rights of children were protected adequately. Boys and girls have equal access to health care and other public services. Education is free and compulsory through the lower secondary level (age 14, or ninth grade). Education was available widely to students who met minimum academic standards at the upper secondary level through the age of 18. Society places an extremely high value on education, and enrollment levels for both boys and girls through the free upper secondary level (to age 18) exceeded 96 percent.

Public attention was focused increasingly on reports of frequent child abuse in the home. In 2000 the Diet enacted a law granting child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. This law raised public awareness of the problem of child abuse. The law also bans abuse under the guise of discipline and obliges teachers, doctors, and welfare officials to report any suspicious circumstances to the 174 local child counseling centers located nationwide or to municipal welfare centers. In spite of the Child Abuse Prevention Law, 62 children have died of abuse or neglect since its enactment in November 2000. Fifteen of these children died despite the involvement of a child counseling center. Child protection centers received 24,792 reports of abuse in 2001. A 1999 report by the Ministry of Health and Welfare warned that, since caseloads at counseling centers nearly doubled from 1988-96, cuts in funding by local governments to centers handling child abuse cases were exacerbating the problem.

Incidents of student-on-student violence in schools and severe bullying ("ijime") also continued to be a societal and government concern. An Education Ministry survey released in 2001 reported 20,751 cases of student-on-student violence in public schools during the 2000-01 academic year, a 10 percent increase from the previous year. In addition to compiling statistics on bullying and consulting with various groups concerned with children's welfare, the Ministry of Justice's Office of the Ombudsman for Children's Rights provided counseling services for children 18 years of age and younger who have been victims of bullying.

In previous years, both the Government and society in general appeared to take a lenient attitude toward teenage prostitution and dating for money (which may or may not have involved sexual activity). However, in 1999 the Diet passed a law banning sex with persons under age 18 as well as the production, sale, or distribution of child pornography. The law was passed following heightened public attention to a growing problem of teenage prostitution and international criticism over the country's lax laws on child pornography. The law has reduced the open availability of child pornography. Whereas in 1998 INTERPOL estimated that 80 percent of Internet sites with child pornography originated in Japan, by late 1999, after passage of the law, the police reported that most of these sites either had disappeared entirely or were accessible only at random hours to avoid detection and arrest. Since April 1999, operators of pornographic home pages and suppliers of pornographic images have been required to register with local safety commissions and not to offer such pages to persons under the age of 18. According to the National Police Agency, the police arrested 613 persons between January and June for patronizing teenage prostitutes and child pornography, a six-fold increase over the same period in 2001. However, teenage prostitution, dating for money, and child



pornography continued to be problems.

In 2001 revisions to the Juvenile Law went into effect that lowered the age at which children can be held criminally responsible for their actions from 16 to 14. Under juvenile law, juvenile suspects are tried in family court and have the right of appeal to an appellate court. Family court proceedings are not open to the public, a policy that has been criticized by family members of juvenile crime victims. The number of juveniles arrested and sent to prosecutors was up 6.8 percent in 2002, according to the National Police Agency. During the year, juvenile crime also showed a trend toward more serious offenses such as murder, robbery, arson, and rape.

In 2000 the Tokyo prefectural government put into effect programs to protect the welfare of stateless children, whose births their illegal immigrant mothers refused to register for fear of forcible repatriation. According to Justice Ministry statistics, 720 stateless minors under the age of 5 were in the country in 2000.

#### Persons with Disabilities

There were an estimated 2.9 million persons with physical disabilities and roughly 2 million persons with mental disabilities. Although not generally subject to overt discrimination in employment, education, or in the provision of other state services, persons with disabilities faced limited access to public transportation, "mainstream" public education, and other facilities. The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, mandated that private companies with 300 or more employees hire a fixed minimum proportion of persons with disabilities. The penalty for noncompliance is a fine. A 1998 cabinet directive ordered private companies to raise the proportion of persons with physical disabilities in their work force from 1.6 to 1.8 percent and raised the percentage of persons with disabilities among civil servants from 2 to 2.1 percent. Some prefectural governments provided subsidies to companies that employed persons who used wheelchairs. In 2001 the Diet passed legislation amending 27 laws that previously had banned the blind, deaf and those with mental disabilities from working as doctors, dentists, nurses, and pharmacists, and the Health, Labor, and Welfare Ministry started awarding licenses for these professions on a case-by-case basis.

The law does not mandate accessibility to buildings for persons with disabilities; however, the law on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and tax breaks if they build wider entrances and elevators to accommodate persons with disabilities. In 2000 the barrier-free transportation law took effect, requiring public transport systems to take measures to make their facilities more accessible to persons with disabilities as well as to the elderly. In November the Tokyo District Court declared unconstitutional the Public Offices Election Law, which did not exempt people with severe physical disabilities from the requirement to handwrite the name of the candidate on the ballot when voting by mail. The case had been brought by three Tokyo residents who suffered from Lou Gehrig's disease, a condition which left them unable to write.

The Law to Promote the Employment of the Handicapped includes those with mental disabilities. The law also loosened the licensing requirements for community support centers that promote employment for persons with disabilities, and it introduced government subsidies for the employment of persons with mental disabilities in part-time jobs. Despite the enactment of this law, Health, Labor, and Welfare Ministry data showed that fiscal year 2001 saw the number of persons with disabilities fired from their jobs reach a record high of 4,017, a 1.6-fold increase from the previous year. This dismissal rate is significantly higher than the 1.2-fold increase recorded for the general population. The Headquarters for Promoting the Welfare of Disabled Persons, set up by the Prime Minister's Office, in previous years recommended that municipalities draw up formal plans for the care of citizens with disabilities. The Ministry of Health and Welfare also has instructed local governments to set numerical targets for the number of home help providers and care facilities allocated to the disabled. In 2000 74.9 percent of municipalities had formal care plans for citizens with disabilities. In 2001 the Government abolished Medical Service Law provisions that had exempted mental hospitals from minimum staffing guidelines; however, reports of understaffing persisted.

Advocacy groups for women and persons with disabilities continued to press for a government investigation into sterilization cases that were carried out between 1949 and 1992, as well as a formal government apology and compensation (see Section 1.f.).

#### Indigenous People

The Ainu are a people descended from the first inhabitants of the country. Under an 1899 law, the Government pursued a policy of forced assimilation, imposing mandatory Japanese-language education and denying the Ainu their right to continue traditional practices. The law also left the Ainu with control of only approximately 0.15 percent of their original land holdings and empowered the Government to manage communal assets.

In 1997 the Sapporo District Court ruled that the Ainu were a minority aboriginal race, and later that year, the Diet passed the Law to Promote Ainu Culture. The law recognized the Ainu as an ethnic minority, and required all prefectural governments to develop basic programs for promoting Ainu culture and traditions. It also canceled previous laws that discriminated against the Ainu, including the 1899 law, and required the Government of Hokkaido to return Ainu communal assets. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido and also failed to address whether they deserved special rights as a distinct ethnic group. The new law did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal Japanese minority. A 1998 report submitted by the U.N. Special Rapporteur to the U.N. Working Group on Indigenous Populations stated that the Ainu never had entered into a consensual

juridical relationship with any state and stated that the lack of such an agreement deprived them of their rights. Many Ainu criticized the Law to Promote Ainu Culture for not advancing Ainu political rights and criticized the Government for not providing funds for noncultural activities that would improve Ainu living conditions or financial status. The Japan Ainu Association, a nationwide organization of Ainu, lobbied the Government for economic assistance and greater social welfare benefits for Ainu throughout the country. According to a 1999 survey, 3.72 percent of Ainu received welfare benefits, roughly double the national average of 1.84 percent.

The Ainu continued to face societal discrimination while engaging in an uphill struggle against complete assimilation, although Ainu-language newspapers, radio programs, and academic programs studying Ainu culture have increased since 1997. In 2001 the U.N. Committee on the Elimination of Racial Discrimination (CERD) noted that the country "has not taken sufficient steps to address the issue of discriminatory treatment of Koreans and Ainu living in" the country. Also in 2001, several nongovernmental groups, including the Ainu Association of Hokkaido and the Citizens' Diplomatic Center for the Rights of Indigenous People, protested the Government's failure to note continuing social and economic discrimination faced by the Ainu in its 2000 report to the CERD.

#### National/Racial/Ethnic Minorities

Burakumin, Koreans, and alien workers experienced varying degrees of societal discrimination, some of it severe and longstanding.

The Burakumin (descendants of feudal era "outcasts" who practiced "unclean" professions such as butchering and undertaking), although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing and employment opportunities. They were estimated to number approximately 3 million, but most preferred to hide their identities. Beginning in 1969, the Government introduced with some success a number of social, economic, and legal programs designed to improve conditions for the Burakumin and hasten their assimilation into mainstream society. However, in recent years, some within the Burakumin community have questioned whether assimilation is an appropriate goal. When the basic legislation to provide funding for Burakumin programs expired in 1997, the Government enacted legislation effective for 5 years that retained 15 of the original 45 programs for Buraku communities. In March Burakumin relief funds were halved from their previous levels as a result of the expiration of the Special Measures Law for Community Investment. Actual funding was cut to \$408.3 million (49 billion yen) from the previous level of \$875 million (105 billion yen), and the number of Burakumin-related projects was cut from 1,700 to 1,000. A 2001 working paper commissioned by the U.N. Human Rights Commission's Subcommittee on the Promotion and Protection of Human Rights acknowledged that the living standards of the Buraku had improved but noted that discrimination in marriage and employment continued.

In recent years, the Buraku Liberation League placed less emphasis on class struggle and more emphasis on civil rights, social welfare, and the environment. The League also replaced the term Burakumin (hamlet people) with Buraku Jumin (hamlet residents), to try to debunk the false concept that the Burakumin are a different race from other Japanese.

According to the Ministry of Justice, there were nearly 1.77 million legal foreign residents as of 2001, accounting for 1.34 percent of the population. Of these, the largest group at approximately 632,000 were ethnic Koreans, followed by the Chinese, Brazilians, and Filipinos. The number of Korean residents—a record low 35.6 percent of the foreign population in 2001—has been decreasing steadily since 1991 as Korean nationals naturalized or married Japanese, which allows their children to gain citizenship automatically. Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) still were subjected to various forms of deeply entrenched societal discrimination. In 2001 two associations representing Korean residents in Japan lodged protests against the Public Security Investigative Agency (PSIA) and the Kyoto municipal government when media reports revealed that the PSIA had investigated over 200 persons of Korean ancestry under the Subversive Activities Prevention Law.

Other foreigners also were subject to discrimination. There was a widespread perception that foreigners commit many crimes. In 2001 non-Japanese residents of Nagano prefecture petitioned the governor to remove posters issued by the Nagano Prefectural Police and the Japan Crime and Fire Prevention Communication Association that depicted foreigners committing crimes. Also in 2001, as a result of widespread media attention, appeals by the Justice Ministry, and an antidiscrimination campaign waged by NGOs, several businesses in Hokkaido lifted their bans against foreigners. In 2001 Hokkaido police investigated death threats made against a foreign born naturalized citizen who had sued both a bathhouse for refusing him entrance on the basis of race and the Otaru Municipal Government for failing to take measures to stop discriminatory entrance policies. In November the Sapporo District Court ordered the bathhouse to pay the plaintiff \$25,000 (3 million yen) for subjecting the plaintiff to racial discrimination. The court rejected the claim against the Otaru Municipal Government, saying that the International Convention on the Elimination of All Forms of Racial Discrimination does not require local governments to institute ordinances to stamp out discrimination.

By law aliens with 5 years of continuous residence are eligible for naturalization and the simultaneous acquisition of citizenship rights, including the right to vote; however, in practice most eligible aliens choose not to apply for citizenship, in part due to fears that their cultural identity would be lost. Obstacles to naturalization included broad discretion available to adjudicating officers and great emphasis on Japanese-language ability. Naturalization procedures also required an extensive background check, including inquiries into the applicant's economic status and assimilation into society. Koreans were given the option of adopting a Japanese surname. The Government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society. Alien permanent residents may live abroad for up to 4 or 5 years without losing their right to

permanent residence in the country.

In 1995 the Supreme Court ruled that the Constitution does not bar permanent foreign residents from voting in local elections. However, the Court also ruled that existing laws denying voting rights to foreign residents were not unconstitutional. In 2000 the Supreme Court upheld Nagoya and Osaka High Court decisions rejecting appeals by Korean permanent residents demanding the right to vote in local elections. The courts have consistently ruled that limiting the vote to citizens is constitutional, but that the Diet could legislate suffrage for foreign residents. Such legislation was submitted to the Diet during the year; however, at year's end, strong opposition to the legislation within the Diet, particularly within the Liberal Democratic Party, remained. In 1999 the Osaka Prefectural Assembly passed a measure granting permanent residents local suffrage, becoming the third prefecture to pass such a bill.

Under the School Education Law, students attending Chinese, Korean, or other non-Japanese-language schools are not eligible to take national university examinations. However, in 2000 the Education Ministry announced that, beginning in 2001, graduates of non-Japanese-language schools would be eligible to take national university examinations if they passed a state-run high school equivalency test. In 2001 the Education Ministry began studying implementation of a Cabinet report that concluded universities should admit graduates of non-Japanese-language schools without the high school equivalency test. A number of local governments provided subsidies to Korean schools; the central Government did not subsidize any non-Japanese-language schools. The Association of National Universities also took action in 2001, urging state universities to scrap nationality clauses from their admissions criteria. A majority of state-run universities are expected to comply with the Association's request, which will open the door for many graduates of non-Japanese-language high schools to gain access to a much broader range of university-level educational opportunities.

In 2000 a revised law to end the practice of fingerprinting permanent foreign residents went into effect. Instead of fingerprinting, the Government established a family registry system that uses the resident's picture and signature and contains information on parents and spouses living in the country, a system similar to that used for citizens. All foreign residents still are required to carry alien registration certificates at all times, but the revised law reduces the penalties imposed on those found without documentation. However, in 2001 the Osaka High Court confirmed the legality of the former fingerprinting procedure and overturned a 1998 lower court ruling that had ordered three prefectures to pay damages to six foreign residents who had been tried for violations of the Alien Registration Law in the 1980s for refusing to be fingerprinted.

In 1996 the Home Affairs Ministry reversed the long-held national policy of opposition to localities lifting the Japanese nationality requirement for public servants. However, the Ministry instructed local governments to restrict noncitizens' access to jobs that involved the exercise of public authority and formation of public opinion. The directive also required local governments clearly to state which jobs were closed to noncitizens. Some of the jobs considered off limits included tax collection, construction permit issuance, sanitation inspection, and firefighting.

Several local governments have changed their rules in response to the Government's position. In 1999 the Hakodate municipal government began to allow foreign residents to take employment tests for all city jobs except firefighters. According to a 1997 joint survey conducted by the All Japan Prefectural and Municipal Workers Union and the Korean Residents Association in Japan, 19.8 percent of local governments forbade hiring noncitizens.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution provides for the right of workers to associate freely in unions. Approximately 11.2 million workers, 20.7 percent of all employees, belonged to labor unions. Unions were free of government control and influence. Although most unions were involved in political activity as well as labor relations, they were not controlled by political parties. There were no restrictions requiring a single trade union structure, nor were there restrictions on who may be a union official. The Japanese Trade Union Confederation, which represented 7.2 million workers and was formed in 1989 through the merger of several confederations, was the largest labor organization.

Unions were free also to affiliate internationally and were active in international bodies, most notably the International Confederation of Free Trade Unions.

### b. The Right to Organize and Bargain Collectively

The Constitution provides unions with the right to organize, bargain, and act collectively. These rights were exercised freely, and collective bargaining was practiced widely. The annual "Spring Wage Offensive," in which individual unions in each industry conduct negotiations simultaneously with their firms, involved nationwide participation. Management usually consulted closely with its enterprise union. However, trade unions were independent of management and aggressively pursued the interests of their workers. The law prohibits antiunion discrimination, and adequate mechanisms existed for resolving cases that occurred, including the reinstatement with back wages of any workers fired for union activities. The right to strike, implicit in the Constitution, was exercised. During 2001 29,101 workdays involving 223,144 employees were lost to strikes. The law prohibits retribution against strikers and is enforced effectively.

However, some public employees, including members of the armed forces, police, and firefighters are not permitted to form unions or to strike. These restrictions have led to a long-running dispute with the International Labor Organization's (ILO) Committee on the Application of Conventions and Recommendations over the observance of ILO Convention 98 concerning the right to organize and bargain collectively. The Committee has observed that these public employees have a limited capacity to participate in the process of determining their wages and has asked the Government to consider measures it could take to encourage negotiations with public employees. The Government determines the pay of government employees based on a recommendation by the independent National Personnel Authority.

There were no export processing zones.

#### c. Prohibition of Forced or Bonded Labor

The Constitution provides that no person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited. Although children were not specified in the provision, this legal prohibition against forced or compulsory labor applies equally to adults and to children.

Former Allied prisoners of war and Chinese and Korean workers continued to press claims for damages and compensation for forced labor during World War II in Japanese civil courts, U.S. courts, and in complaints to the ILO. During the year, 15 Chinese men who were forced to work in coal mines during World War II appealed a decision handed down by the Fukuoka High Court that ordered Mitsui Mining Co., but not the Government, to pay them compensation. In late 2001, 18 Chinese men filed a law suit for damages against the Government and two major construction firms to seek compensation for their forced labor during World War II, seeking \$3.87 million (464.4 million yen) in damages and a public apology. In 2001 the Tokyo and Kyoto District Courts ordered the Government to pay damages in two separate cases. In the first, compensation was ordered to be paid to the family of a Chinese man who died in hiding after escaping from a coal mine where he had been forced to work during World War II. In the second case, compensation was ordered to be paid to 15 survivors of a 1945 explosion that had killed 524 Koreans brought to the country as forced laborers. Both lower courts ruled that the Government had failed to ensure a safe return home for the laborers but rejected further compensation for their forced labor. The Government was appealing both rulings at year's end. In 2000 the Diet passed a law offering "condolence money" for foreign nationals killed or injured while serving with the Imperial army in response to a 1998 Tokyo High Court recommendation. The Public Management Ministry began accepting applications for condolence money in 2001; the legislation provides for payments of \$33,333 (4 million yen) to seriously injured foreign national soldiers and \$21,667 (2.6 million yen) to the survivors of those foreign nationals killed in service. However, seriously injured Japanese veterans are eligible for \$632,761 (80 million yen) and a lifetime pension. An ILO committee has called on the Government to take additional measures to satisfy individual Chinese and Korean victims of forced labor during the war.

The Asian Women's Fund continued to support former comfort women, who were forced to provide sexual services to Japanese troops during World War II (see Section 5).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution bans the exploitation of children. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. By law children under the age of 15 may not be employed, and those under age 18 may not be employed in dangerous or harmful jobs. In 2001 the Labor Inspection Division of the Ministry of Labor, which vigorously enforces the Labor Standards Law, reported 18 instances of children under the age of 15 being employed and 25 instances of children under the age of 18 being employed in dangerous or harmful jobs.

The Government prohibits forced or bonded labor, including that performed by children, and enforced this prohibition effectively (see Section 6.c.).

#### e. Acceptable Conditions of Work

Minimum wages are set on a regional (prefectural) and industry basis, with the input of tripartite (workers, employers, public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages was considered widespread. Minimum wage rates, effective during the year, ranged from \$18 (2,231 yen) per hour in Tokyo to \$11 (1,358 yen) in Aomori prefecture and were considered sufficient to provide a worker and family with a decent standard of living. The Labor Standards Law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked over 40 in a week, or 8 in a day. However, labor unions frequently criticized the Government for failing to enforce maximum working hour regulations in smaller firms.

The Ministry of Labor effectively administered various laws and regulations governing occupational health and safety, principal among which is the Industrial Safety and Health Law. Standards were set by the Ministry of Labor and issued after consultation with the Standing Committee on Safety and Health of the Central Labor Standards Council. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

The Immigration Bureau of the Justice Ministry estimated that, as of January 1, there were 224,000 foreign nationals residing

illegally in the country, a 3.5 percent reduction from the previous year. Illegal immigrants came primarily from South Korea, the Philippines, China, Thailand, and Malaysia. In 2001 the Justice Ministry announced plans to construct a new immigration detention facility in Tokyo and to increase legal immigration numbers by 1,100 over a 5-year period as part of an effort to decrease the numbers of illegal foreign residents. Ministry of Justice sources said that the economic recession, the enactment of a package of measures designed to counter illegal immigration, and the aftershocks of the terrorist attacks of September 11 were among the reasons for the drop in the illegal immigrant population.

While many foreign illegal residents entered the country in search of better paying manufacturing and construction jobs, these opportunities decreased during the economic slowdown. Thus more foreign workers were unemployed or marginally employed. Activist groups claimed that employers exploited or discriminated against foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. In 2001 NGOs held a forum on migrant labor that was attended by 1,000 activists. The forum was held to draw attention to exploitative practices, including unsafe working conditions and unpaid overtime, to which foreign workers were exposed while working on "trainee" visas under the Foreign Technical Trainee and Technical Internship Programs.

The Government tried to reduce the inflow of illegal foreign workers by prosecuting employers. Revisions of the Immigration Law provide for penalties against employers of undocumented foreign workers. Suspected foreign workers also may be denied entry for passport, visa, and entry application irregularities. In addition, the 1999 revision to the immigration law established penalties for illegal stays separate from existing injunctions against illegal entry. The Government continued to study the foreign worker issue, and several citizens' groups were working with illegal foreign workers to improve their access to information on worker rights.

#### f. Trafficking in Persons

The Constitution prohibits holding persons in bondage, and the Penal Code contains several provisions that could be used to combat trafficking of persons; however, there are no specific laws that prohibit trafficking in persons, and trafficking of women and girls into the country was a problem. Women and girls, primarily from Thailand, the Philippines, and the former Soviet Union, were trafficked into the country for sexual exploitation and forced labor. Women and girls from Colombia, Brazil, Mexico, South Korea, Malaysia, Burma, and Indonesia also were trafficked into the country in smaller numbers. Japan also was a destination for illegal immigrants from China who were trafficked by organized crime groups who often held such persons in debt bondage for sexual exploitation and indentured servitude in sweatshops and restaurants. The Government has reported that some smugglers used killings and abduction to ensure payment.

There was evidence that trafficking took place within the country to the extent that some recruited women subsequently were forced, through the sale of their "contracts," to work for other employers. Child prostitution was a problem (see Section 5).

Reliable statistics on the number of women trafficked to the country were unavailable. During the year, the National Police Agency identified 55 women as potential trafficking victims during criminal investigations involving entertainment businesses. During the course of those investigations, 28 individuals were prosecuted as trafficking brokers under various immigration and entertainment facility laws. However, the Government does not consider an individual who has willingly entered into an agreement to work illegally in the country to be a trafficking victim, regardless of that person's working conditions once in the country. Thus, government figures may understate the problem as persons who agreed to one kind of work found themselves doing another, or were subject to force, fraud, or coercion. Traffickers were prosecuted for crimes ranging from violations of employment law to Penal Code offenses such as abduction, and the Government did not compile statistics on the number of trafficking victims associated with these cases. Since trafficked women generally were deported under immigration law as prostitutes, immigration statistics may provide only a rough picture of the scale of the problem. A government-funded study released in 2000 found that nearly two-thirds of foreign women surveyed following arrests for immigration offenses stated that they were working in the sex industry under duress.

Many women who were trafficked into the country, particularly from the Philippines, entered legally on entertainment visas. In 2001 approximately 72,000 women from the Philippines entered the country on such visas. "Entertainers" are not covered by the Labor Standards Law, and have no minimum wage protections; however, there were indications that they may be somewhat less vulnerable to abuse by employers than female migrant workers entering illegally or on other types of visas. In a move to tighten scrutiny on the entertainer visa system, the Immigration Control and Refugee Recognition Law was revised to give Regional Immigration Bureaus the authority to verify that foreigners entering the country on such visas are abiding by all relevant regulations. Early results of the checks showed that a significant number of entertainer visa holders acquired their visas using fraudulent information, often listing defunct shops or fictitious establishments as employers on immigration documents. Regional Immigration Bureaus planned to file criminal complaints against promoters of entertainer visas who submitted fraudulent information.

Brokers in the countries of origin recruited women and "sold" them to Japanese intermediaries, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation often had ties to organized crime.

Women trafficked to the country generally were employed as prostitutes under coercive conditions in businesses licensed to provide commercial sex services. Sex entertainment businesses are classified as "store form" businesses such as strip clubs, sex shops, hostess bars, and private video rooms, and as "nonstore form" businesses such as escort services and mail order

video services which arrange for sexual services to be conducted elsewhere. According to NGOs and other credible sources, most women who were trafficked to the country for the purpose of sexual exploitation were employed as hostesses in "snack" bars, where they were required to provide sexual services off premises.

Many Thai women were enticed to come to the country with offers of lucrative legitimate employment, only to be sexually exploited; many others reportedly knew that they would work as prostitutes. However, whether or not they understood the nature of the work they would be doing, trafficked women generally did not understand the debts they would be forced to repay, the amount of time it would take them to repay the debts, or the conditions of employment they would be subjected to upon arrival. According to Human Rights Watch, the passports of Thai women trafficked to work in "dating" bars usually were confiscated by their employers, who also demanded repayment for the cost of their "purchase." Typically, the women were charged \$25,000 to \$40,000 (3 million to 5 million yen); their living expenses and expenses for medical care (when provided by the employer) and other necessities, as well as "fines" for misbehavior, were added on to the original "debt" over time. How the debt was calculated was left to the employers; the process was not transparent, and the employers reportedly often used the debt to coerce additional unpaid labor from the trafficked women. Employers also sometimes "resold" or threatened to resell troublesome women or women found to be HIV positive, thereby increasing the debt they must repay and possibly worsening their working conditions. To repay the debts they incurred, trafficked women generally had to work long hours (often with no days off) for several months, essentially without pay. Many women were not allowed to refuse clients, even those known to be physically abusive. Most Thai women trafficked into the sex trade had their movements strictly controlled by their employers while working off their debt, and were threatened with reprisals, perhaps through members of organized crime groups, to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. Most trafficked women also knew that they were subject to arrest if found without their passports or other identification documents. Few spoke Japanese well, making escape even more difficult.

In 1999 the Diet amended the Law on Control and Improvement of Amusement Businesses in order to supplement the Prostitution Prevention Act as an instrument against trafficking. The amended law sanctions employers rather than just sanctioning victims and requires the Government to refuse to grant or to revoke the business license of anyone convicted of the "crime of encouragement" to engage in prostitution. In 1999 the Diet also enacted a law intended to prevent all forms of sexual exploitation of children, whether trafficked or not, which imposes a 1- to 3-year sentence on anyone convicted of trading in children for the purpose of child prostitution or child pornography. Traffickers can also be prosecuted for violations of employment, immigration, or labor laws, and for Penal Code offenses such as abduction and kidnaping. However, relatively few persons have ever been prosecuted in connection with trafficking and forced sexual servitude; those who were prosecuted generally were prosecuted in connection with violations of immigration law. There were allegations that some law enforcement units have been reluctant to investigate reports of trafficking, and that the Government has not been aggressive in arresting and prosecuting suspected traffickers. The use of suspended sentences in trafficking cases was also a concern.

Domestic NGOs and lawyers compiled credible anecdotal evidence suggesting that some individual police officials returned trafficking victims to their employers when these individuals sought police protection. NGOs also reported that police sometimes declined to investigate suspected brokers when presented with information obtained from trafficking victims.

Except for the Tokyo Metropolitan Government, which funded a Tokyo-based NGO assisting victims of trafficking, the Government did not assist victims of trafficking for sexual purposes other than to house them temporarily in facilities established under the Antiprostitution Law, in detention centers for illegal immigrants, or through referrals to shelters run by NGOs; generally they were deported as illegal aliens. Victims often were treated as criminals because the Government does not consider persons who willingly enter for illegal work to be trafficking victims. Women without documentation or sufficient funds to return to their country of origin were sometimes detained for long periods. Several NGOs throughout the country provided shelter, medical aid, and legal assistance to trafficking victims. A domestic violence law passed in April may channel funding to NGOs that are working to provide protection to trafficking victims as well as victims of domestic violence. The Government funded trafficking prevention efforts in Asian source countries, sponsored public information campaigns targeted at potential victims, and provided equipment and training to police and customs officials in those countries.